

In the United States Court of Federal Claims

No. 20-701

Filed: April 8, 2021

BAKALOVIC, *et al.*,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

ORDER DISMISSING CASE

On June 10, 2020, plaintiffs filed a short-form complaint in this case. Plaintiffs' Original Complaint, ECF No. 1 [hereinafter Compl.]. In that Complaint, plaintiffs allege a Fifth Amendment taking of real and personal property without just compensation by the United States as a result of the release of water from the Addicks and Barker Reservoirs. *See generally id.*

On February 18, 2020, the Court issued its Opinion and Order in *In Re Downstream Addicks and Barker (Texas) Flood-Control Reservoirs v. United States*, Sub-Master Docket No. 17-9002, granting defendant's Motion to Dismiss and Cross-Motion for Summary Judgment and denying plaintiffs' Motion for Summary Judgment. Opinion and Order, Case No. 17-9002, ECF No. 203. In that Opinion and Order, the Court found that the State of Texas does not recognize a property interest in perfect flood control in the wake of an Act of God and that an Act of God cannot trigger Fifth Amendment takings liability. *See generally id.*

On September 10, 2020, this Court deemed plaintiffs' case "directly or indirectly related . . . to claims considered in *In Re Downstream Addicks and Barker (Texas) Flood-Control Reservoirs v. United States*, Sub-Master Docket No. 17-9002." Scheduling Order at 1, ECF No. 7. Consequently, the Court issued an Order to Show Cause, directing that "any plaintiff . . . that believes it has a claim that was not resolved by the Court's February 18, 2020 Opinion and Order shall **SHOW CAUSE** as to why its case should not be dismissed." *Id.* (quoting Scheduling Order and Order to Show Cause, Case No. 17-9002, ECF No. 208).

On October 14, 2020, plaintiffs responded to that Order, notifying the Court that “they do not seek to show cause that their claims are distinguishable” and “acknowledge that this case is subject to disposition on the same basis” as the Court’s February 18, 2020 Opinion and Order. Plaintiffs’ Response to Scheduling Order at 1, ECF No. 9. Accordingly, plaintiffs’ case is hereby **DISMISSED**. The Clerk of Court is directed to enter judgment consistent with the above.

IT IS SO ORDERED.

s/ *Loren A. Smith*

Loren A. Smith,
Senior Judge